

Submitter: Robert Fleming
On Behalf Of:
Committee: Senate Committee On Rules
Measure, Appointment or Topic: SB243

I am writing to express my strong opposition to the proposed legislation that would prevent firearms dealers from releasing a firearm if a background check is not completed within a 72-hour period. I believe this bill would create undue burdens on law-abiding citizens and potentially infringe upon their Second Amendment rights without demonstrably enhancing public safety.

The current federal system, as outlined in the Brady Handgun Violence Prevention Act, already mandates background checks through the National Instant Criminal Background Check System (NICS) prior to the transfer of a firearm by a licensed dealer. While delays in the NICS system can occasionally occur, imposing an arbitrary 72-hour waiting period, regardless of the reason for the delay, creates significant challenges. These delays can be due to administrative issues within the NICS system itself, rather than any disqualifying factor on the part of the purchaser. Requiring dealers to indefinitely hold firearms in such situations punishes responsible individuals who have undergone the required process and have no legal impediment to ownership. It also places an unfair burden on licensed dealers, who would be forced to manage extended storage and potentially face customer dissatisfaction through no fault of their own.

Furthermore, I want to bring to the Committee's attention the principle of preemption. In the area of firearms regulation, federal law often sets a baseline, and many states, including Oregon, have laws in place that prevent local jurisdictions from enacting stricter regulations than those already established at the state level. While the scope of state preemption can vary, it is crucial to consider whether this proposed legislation, by imposing a more stringent waiting period than what is effectively mandated by federal law (which allows for transfer if NICS is delayed beyond three business days and no disqualifying information is found), could be seen as an infringement on the principles of state preemption regarding firearm transfers. This bill risks creating a de facto waiting period even when individuals have been cleared by the federal background check system, thereby adding a layer of restriction beyond what federal law requires. This could potentially conflict with the intent and application of Oregon's preemption statutes related to firearm regulation. Instead of creating additional barriers for law-abiding citizens, our efforts should focus on ensuring the efficiency and accuracy of the existing NICS system. Addressing the root causes of delays within the federal system would be a more effective approach to ensuring responsible firearm transfers. Thank you for your time and consideration of my concerns. I urge you to oppose this legislation.

Sincerely,
Robert Fleming